

TOWN OF EASTHAM GROUNDWATER PROTECTION DISTRICT BYLAW

SECTION 1: INTRODUCTION AND PURPOSE OF DISTRICT

1.1. The Groundwater Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities and uses in a portion of one of the underlying zoning districts that fall within the Groundwater Protection District must additionally comply with the requirements of this bylaw. Uses prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.

1.2. The purpose of this Groundwater Protection District is to:

- a. promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the Town of Eastham;
- b. preserve and protect existing and potential sources of drinking water;
- c. conserve natural resources in the Town of Eastham; and
- d. prevent temporary and permanent contamination of the environment.

SECTION 2: DEFINITIONS

Automobile Graveyard: An establishment that is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or motor vehicle parts as defined in MGL c.140B, s.1.

Aquifer: A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

CMR: Code of Massachusetts Regulations.

Commercial Fertilizer: Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed to have value in promoting plant growth, except un-manipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum, and other products exempted by state regulations.

Discharge: The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, pouring, or placing of toxic or hazardous material or hazardous waste upon or into any land or water such that it may enter the surface or ground waters.

Groundwater Protection District: The land area consisting of aquifers and Zone II recharge areas as identified on a map and adopted pursuant to this bylaw.

Hazardous Material: Any substance in any form which because of its quantity, concentration, or its chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with one or more substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. Hazardous material includes, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as toxic or hazardous under MGL c. 21E. This term shall not include hazardous waste or oil.

Historical High Groundwater Table Elevation: A groundwater elevation determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.

Hazardous Waste: A substance or combination of substances, which because of quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety, or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. This term shall include all substances identified as hazardous pursuant to the Hazardous Waste Regulations, 310 CMR 30.000.

Impervious Surface: Material or structure on, above, or below the ground that does not allow precipitation or surface water runoff to penetrate into the soil.

Interim Wellhead Protection Area (IWPA): The MassDEP designated protection radius around a public water well that lacks a Zone II.

Junkyard: An establishment that is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, as defined in MGL c.140B, s.1.

Landfill: A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to the Solid Waste Regulations, 310 CMR 19.006.

MassDEP: Massachusetts Department of Environmental Protection.

MGL: Massachusetts General Law.

Petroleum Product: Includes, but not limited to, fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.

Non-Sanitary Wastewater: Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage including, but not limited to, activities specified in 310 CMR 15.004(6).

Open Dump: A facility operated or maintained in violation of the Resource Conservation and Recovery Act 42 U.S.C. 4004(a)(b), or state regulations and criteria for solid waste disposal.

Recharge Areas: Land areas, such as a Zone II or Interim Wellhead Protection Area, where precipitation and surface water infiltrates into the ground to replenish groundwater and aquifers used for public drinking water supplies.

Septage: The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. This term shall not include any material that is a hazardous waste, as defined by 310 CMR 30.000.

Sludge: The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment including wastewater residuals. This term shall not include grit, screening, or grease and oil which are removed at the head-works of a facility

Treatment Works: Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

Utility Works: Regulated activities providing for public services, including roads, water, sewer, electricity, gas, telephone, transportation and their associated maintenance activities. This term shall include the installation of detention and retention basins for the purpose of controlling storm water.

Very Small Quantity Generator: Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

Waste Oil Retention Facility: A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with MGL c.21. s.52A.

Zone I: The protective radius around a public water supply well or well field that must be owned by the water supplier, or controlled through recorded conservation restriction. In most cases, it is a four hundred (400) foot radius around the well (less for wells pumping less than one hundred thousand (100,000) gallons per day (gpd)).

Zone II: The delineated recharge area to a public drinking water well as approved by MassDEP and defined under the Massachusetts Drinking Water Regulations 310 CMR 22.00. The area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield with no recharge from precipitation), as defined by 310 CMR 22.00 and as approved by the Massachusetts Department of Environmental Protection (DEP).

SECTION 3: ESTABLISHMENT AND DELINEATION OF GROUNDWATER PROTECTION DISTRICT

3.1. For the purposes of this bylaw, there is hereby established within the Town of Eastham a Groundwater Protection Overlay District. This area is delineated on a map entitled Town of Eastham Groundwater Protection Overlay District dated January 7, 2016 which is hereby made part of the Groundwater Protection District Bylaw and is on file in the office of the Town Clerk.

SECTION 4: SPECIAL PERMIT

4.1. The Planning Board may issue a special permit for any use prohibited within the Groundwater Protection District, as set forth in Section 6 hereof, if the applicant can adequately demonstrate to the Planning Board that the groundwater beneath the parcel and the water runoff from the parcel does not contribute to existing or potential sources of drinking water. Any application for a special permit for this purpose shall be accompanied by adequate documentation.

4.2. The burden of proof shall be upon the applicant to demonstrate that the groundwater beneath the parcel and the water runoff from the parcel does not contribute to existing or potential sources of drinking water. The Town may engage professional engineers, hydrologists, geologists, or soil scientists to determine more accurately the boundaries of the groundwater watershed with respect to a particular parcel(s) of land, and may charge the owner for the cost of the investigation in accordance with Eastham Zoning Bylaw Section XII(G). If determined that a particular parcel does not in fact contribute to an existing or potential source of drinking water, a special permit may be granted subject to such conditions as the Planning Board deems necessary and appropriate. The grant of a special permit does not alter the boundary of the Groundwater Protection District. Changes to the boundaries of the Groundwater Protection District require town meeting approval.

4.3. Where the boundary line of the Groundwater Protection District divides a lot or parcel, the requirements established by this bylaw shall apply to the entire lot or parcel.

SECTION 5: PERMITTED USES

5.1. All uses permitted in the underlying zoning districts are permitted in the Ground Water Protection District except those specifically prohibited in Section 6 of this bylaw.

5.2. All property used for municipal purposes by or on behalf of the Town of Eastham are exempt the regulations of this bylaw.

SECTION 6: PROHIBITED USES

6.1. The following land uses and activities are prohibited unless such uses and activities comply with the specified conditions provided herein:

- a. landfills and open dumps;
- b. automobile graveyards and junkyards;
- c. facilities that generate, treat, store, or dispose of hazardous waste that are subject to MGL c.21C and 310 CMR 30.000, except for:

1. very small quantity generators as defined under 310 CMR 30.000;
 2. household hazardous waste centers and events under 310 CMR 30.390;
 3. waste oil retention facilities required by MGL c. 21, s.52A;
 4. water remediation treatment works approved by MassDEP for the treatment of contaminated waters.
- e. petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under North American Industry Classification System (NAICS) Codes 424710 and 454311, except for liquefied petroleum gas.
- f. storage of liquid hazardous materials and/or liquid petroleum products unless such storage is above ground level and on an impervious surface and either:
1. in container(s) or above ground tank(s) within a building; or
 2. outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either; 10% of the total possible storage capacity of all containers or 110% of the largest container's storage capacity, whichever is greater.

however, these storage requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline provided the replacement is performed in a manner consistent with state and local requirements;

- g. storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
- h. storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- i. storage of animal manure unless contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- j. storage of commercial fertilizers unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- k. stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside the Groundwater Protection District;
- l. earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within 4 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, utility works or wetland restoration work conducted in accordance with a valid Order of Condition issued pursuant to MGL c. 131, s.40; and
- m. treatment or disposal works subject to 314 CMR 5.00, for non-sanitary wastewater, including those activities listed under 310 CMR 15.004(6), except for:
1. treatment works approved by MassDEP designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and

- 2. publicly owned treatment works.
- n. The use, generation, storage, treatment or disposal of toxic or hazardous materials or wastes, including but not limited to: pesticides, herbicides, fungicides, rodenticides, nitrate fertilizers in quantities greater than those associated with normal household use or as regulated in the underlying zoning district.
- o. rendering impervious any lot or parcel more than 15% or 2,500 square feet, whichever is greater; unless artificial recharge, that will not degrade water quality, is provided using methods demonstrated to be capable of removing contaminants from storm water and which are consistent with methods described in MassDEP's Stormwater Handbook, Vol. I, II and III, as amended.

SECTION 7: ENFORCEMENT

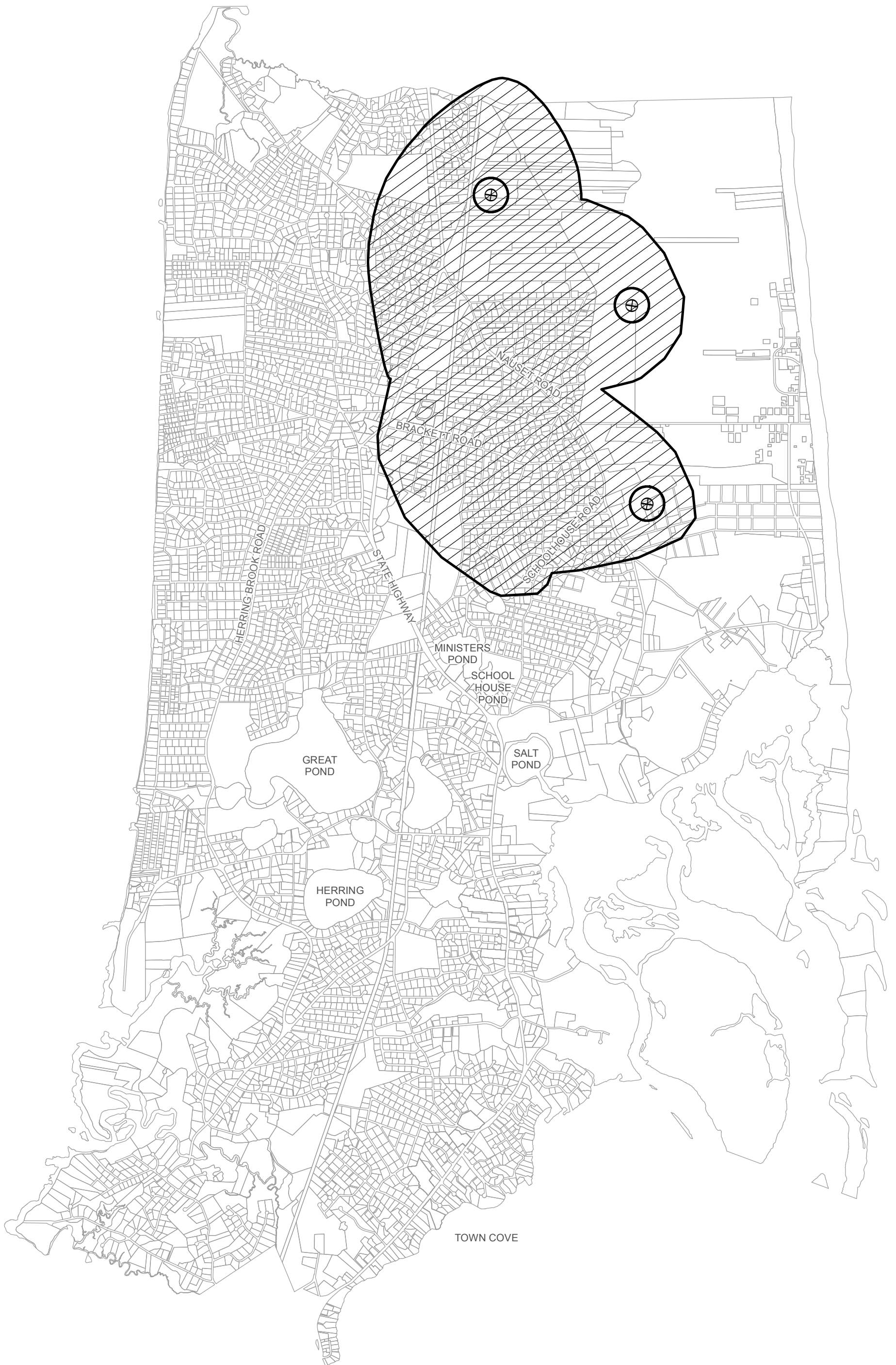
7.1. Written notice of any violations of this bylaw shall be given by the Building Commissioner to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance.

7.2. A copy of such notice shall be submitted to the Town of Eastham Water Commissioners, the Eastham Board of Health and the Eastham Planning Board. The cost of containment, clean-up, or other action of compliance shall be borne by the owner/operator of the premises.

7.3. A person aggrieved by a notice of violation may appeal said notice to the Eastham Zoning Board of Appeals. All appeals shall be brought within thirty (30) days from the date of the notice which is being appealed.

SECTION 8: SEVERABILITY

8.1. If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of this bylaw.



⊕ Well Locations

□ Zone I

▨ Groundwater Protection Overlay District (Zone II)

TOWN OF EASTHAM
GROUNDWATER PROTECTION OVERLAY DISTRICT MAP
MAY 2, 2016

Adopted at Eastham Annual Town Meeting May 2, 2016

